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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,045	07/23/2003	Timothy Robinson	129510.10031	1087
21269 7590 10/18/2007 PEPPER HAMILTON LLP ONE MELLON CENTER, 50TH FLOOR 500 GRANT STREET PITTSBURGH, PA 15219			EXAMINER ELISCA, PIERRE E	
			ART UNIT 3621	PAPER NUMBER
			NOTIFICATION DATE 10/18/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketingpgh@pepperlaw.com

## Office Action Summary

Application No.

10/625,045

Applicant(s)

ROBINSON, TIMOTHY

Examiner

Pierre E. Elisca

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 16-31, 46-74 and 94-103 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-31, 46-74 and 94-103 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. This communication is in response to Applicant's response filed 08/08/2007.
2. Claims 16-31, 46-74 and 94-103 are pending.
3. The rejection to claims 16-31, 46-74 and 94-103 under 35 U.S.C. 103 (a) as being unpatentable over Hoffman et al 133" in view of Denimarck et al 522" as set forth in the office action mailed on 08/11/2006 is maintained.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 16-31, 46-74 and 94-103 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Hoffman et al US 2005/0144133 A1 in view of Denimarck et al US 2003/0018522 A1.

As per claims 16, 18, 21 and 23-31 Hoffman discloses a tokenless biometric for processing electronic transmissions, using at least one user biometric sample, an electronic identifier and an electronic rule module clearinghouse, the method comprising:

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Receiving, at an unattended age verification station (or user medical record also includes age verification) comprising a biometric identification (or electronic identifier), at least one biometric sample proffered by the age presenter via a biometric identification device, receiving, at the unattended age verification station, at least one identification code proffered by the age presenter, sending the at least one biometric sample to at least one database, wherein the at least one database has at least one biometric record stored therein, wherein the at least one biometric record contains a reference of the age presenter's age, and wherein the at least one database has at least one identification code record, comparing, at the at least one database, the at least one identification code to the at least one identification code record, making, at the at least one database, a first determination whether the at least one identification code matches at least one identification code record, in the event the at least one identification code matches the at least one identification code record, making a second determination whether the reference, receiving, at the unattended age verification station, the potential matching biometric record from the at least one database, comparing, at the unattended age verification station, the at least one biometric sample with the potential matching biometric record, making, at the unattended age verification station, a third determination whether the at least one biometric sample matches the potential matching biometric record, in the event that the at least biometric sample matches the potential matching biometric record, making at the unattended age verification station, a fourth determination whether the matching biometric record was pre-approved at least one database, and in the event the matching biometric record was

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pre-approved at the at least one database, approving, at the unattended age verification station, the age-restricted transaction, and sending, from the age verification station to the at least one database, confirmation of completion of the age-restricted transaction(see., abstract, figs 2- 7, [0037], [0042], [0049], [0237], [0238], [0239]).

Hoffman fails to explicitly disclose the limitation wherein said in the event the age information mapped to said biometric record meets the at least one system parameter (parameter or rule) approving the age-restricted transaction. However, Denimarck discloses in the event the age information mapped to said biometric record meets the transaction rules (or parameter) see., Denimarck, [0076], and [0087]. Therefore, it would to a person of ordinary skill in the art at the time the invention was made to modify the tokenless biometric of Hoffman by including the limitation detailed above as taught by Denimarck because this would eliminate having to carry personal identification.

As per claim 17, Hoffman discloses the claimed method wherein the at least one system parameter is defined by the age verification station (see., figs 1, 2 and 7).

As per claims 19 and 20 Hoffman discloses the claimed method wherein the at least one biometric sample comprises at least one of a fingerprint scan, an iris scan, a facial scan, a voice scan, a retinal scan, a hand architecture scan, a vein pattern scan, a signature sample, and a DNA sample (see., Hoffman, [0010]).

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As per claim 22, Hoffman discloses the claimed method wherein the step of sending and receiving comprise sending and receiving encrypted data (see., page 4, [0037]).

As per claims 46-48, 52-62, 66-74 and 94-103 Hoffman discloses a tokenless biometric for processing electronic transmissions, using at least one user biometric sample, an electronic identifier and an electronic rule module clearinghouse, the method comprising:

Receiving, at an unattended age verification station (or user medical record also includes age verification) comprising a biometric identification (or electronic identifier), at least one biometric sample proffered by the age presenter via a biometric identification device, receiving, at the unattended age verification station, at least one identification code proffered by the age presenter, sending the at least one biometric sample to at least one database, wherein the at least one database has at least one biometric record stored therein, wherein the at least one biometric record contains a reference of the age presenter's age, and wherein the at least one database has at least one identification code record, comparing, at the at least one database, the at least one identification code to the at least one identification code record, making, at the at least one database, a first determination whether the at least one identification code matches at least one identification code record, in the event the at least one identification code matches the at least one identification code record, making a second determination whether the reference, receiving, at the unattended age verification station, the potential matching biometric record from the at least one database,

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comparing, at the unattended age verification station, the at least one biometric sample with the potential matching biometric record, making, at the unattended age verification station, a third determination whether the at least one biometric sample matches the potential matching biometric record, in the event that the at least biometric sample matches the potential matching biometric record, making at the unattended age verification station, a fourth determination whether the matching biometric record was pre-approved at least one database, and in the event the matching biometric record was pre-approved at the at least one database, approving, at the unattended age verification station, the age-restricted transaction, and sending, from the age verification station to the at least one database, confirmation of completion of the age-restricted transaction(see., abstract, figs 2- 7, [0037], [0042], [0049], [0237], [0238], [0239]).

Hoffman fails to explicitly disclose the limitation wherein said in the event the age information mapped to said biometric record meets the at least one system parameter (parameter or rule) approving the age-restricted transaction. However, Denimarck discloses in the event the age information mapped to said biometric record meets the transaction rules (or parameter) see., Denimarck, [0076], and [0087]. Therefore, it would to a person of ordinary skill in the art at the time the invention was made to modify the tokenless biometric of Hoffman by including the limitation detailed above as taught by Denimarck because this would eliminate having to carry personal identification.

As per claims 49, 50, 63 and 64 Hoffman discloses the claimed method wherein the at least one biometric sample comprises at least one of a fingerprint scan, an iris scan, a

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facial scan, a voice scan, a retinal scan, a hand architecture scan, a vein pattern scan, a signature sample, and a DNA sample (see., Hoffman, [0010]).

As per claims 51 and 65 Hoffman discloses the claimed method wherein the step of sending and receiving comprise sending and receiving encrypted data (see., page 4, [0037]).

6. Claims 16-31, 46-74 and 94-103 are rejected under 35 U.S.c. 103 (a) as being unpatentable over Gilchrist et al U.S. Pat. No. 6,167,517 in view of Denimarck et al US 2003/0018522 A1.

As per claims 16-31, 46-74 and 94-103 Gilchrist substantially discloses a trusted biometric client authentication, comprising:

Receiving, at an unattended age verification station (or user medical record also includes age verification) comprising a biometric identification (or electronic identifier), at least one biometric sample proffered by the age presenter via a biometric identification device, receiving, at the unattended age verification station, at least one identification code proffered by the age presenter, sending the at least one biometric sample to at least one database, wherein the at least one database has at least one biometric record stored therein, wherein the at least one biometric record contains a reference of the age presenter's age, and wherein the at least one database has at least one identification code record, comparing, at the at least one database, the at least one identification code to the at least one identification code record, making, at the

at least one database, a first determination whether the at least one identification code matches at least one identification code record, in the event the at least one identification code matches the at least one identification code record, making a second determination whether the reference, receiving, at the unattended age verification station, the potential matching biometric record from the at least one database, comparing, at the unattended age verification station, the at least one biometric sample with the potential matching biometric record, making, at the unattended age verification station, a third determination whether the at least one biometric sample matches the potential matching biometric record, in the event that the at least biometric sample matches the potential matching biometric record, making at the unattended age verification station, a fourth determination whether the matching biometric record was pre-approved at least one database, and in the event the matching biometric record was pre-approved at the at least one database, approving, at the unattended age verification station, the age-restricted transaction, and sending, from the age verification station to the at least one database, confirmation of completion of the age-restricted transaction(see., abstract, col1-col8).

Gilchrist fails to explicitly disclose the limitation wherein said in the event the age information mapped to said biometric record meets the at least one system parameter (parameter or rule) approving the age-restricted transaction. However, Denimarck discloses in the event the age information mapped to said biometric record meets the transaction rules (or parameter) see., Denimarck, [0076], and [0087]. Therefore, it would to a person of ordinary skill in the art at the time the invention was made to modify the

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trusted biometric authentication of Gilchrist by including the limitation detailed above as taught by Denimarck because this would eliminate having to carry personal identification.

#### RESPONSE TO ARGUMENTS

7. Applicant's arguments with respect to claims 16-31, 46-74 and 94-103 have been fully considered but they are not persuasive.

#### REMARKS

8. In response to Applicant's arguments filed on 08/08/2007, Applicant argues that the cited references Hoffman 133" in view of Denimarck fail to disclose or suggest each and every limitation of claims 16, 23, 46, 51, 61 and 66:

a. Applicant continues to argue that the Examiner's analyses of independent claims 16, 23, 46, 51, 61 and 66 do not reference the limitations of such claims, but instead reference the limitation of cancelled claim 1. As described above, the limitations of independent claims 16, 46, 61, 94 and 99 have been provided.

b. In regard to the limitation wherein said receiving, at the unattended age verification station, the potential matching biometric record from the at least one database. As indicated above, the cited reference Hoffman 133' discloses this limitation in page 4, [0034], [0037] and [0042], figs 1 and 2.

c. "Comparing, at the unattended age verification station, the at least one biometric sample with the potential matching biometric record". However, the Examiner

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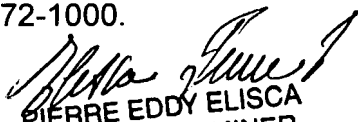
respectfully disagrees with this assertion since the cited reference Hoffman 133" discloses this limitation in fig 3, page 4, [0034], [0040], [0047], [0048], [0051] and [0118]. d. " The age verification". Denimarck discloses this limitation in [0076], and [0087], specifically wherein said in the event the age information mapped to said biometric record meets the transaction rules (or parameter).

### **Conclusion**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00. Patents and hoteling.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on 571 272 6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
PIERRE EDDY ELISCA  
PRIMARY EXAMINER  
TECHNOLOGY CENTER 3600